

Citation: *O. S. v. Canada Employment Insurance Commission*, 2015 SSTAD 856

Appeal No. AD-15-299

BETWEEN:

**O. S.**

Applicant

and

**Canada Employment Insurance Commission**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division – Leave to Appeal**

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SOCIAL SECURITY TRIBUNAL MEMBER: Mark BORER

DATE OF DECISION: July 8, 2015

DECISION: Leave to appeal refused

## DECISION

[1] On April 10, 2015, a member of the General Division dismissed an appeal from the previous determination of the Commission. In due course, the Applicant filed an application requesting leave to appeal this decision to the Appeal Division.

[2] Subsection 58(1) of the *Department of Employment and Social Development Act* states that the only grounds of appeal are that:

- (a) The General Division failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
- (b) The General Division erred in law in making its decision, whether or not the error appears on the face of the record; or
- (c) The General Division based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

[3] The *Act* also states that leave to appeal is to be refused if the appeal has “no reasonable chance of success”.

[4] In his application, the Applicant notes that he lost his job because he was involved in a verbal altercation with a co-worker. He states that although his co-worker was also fired, he received his benefits while the Applicant did not. He asks that leave to appeal be granted because of this.

[5] The role of the Appeal Division is to determine if a reviewable error set out in ss. 58(1) of the *Act* has been made by the General Division and if so to provide a remedy for that error. In the absence of such a reviewable error, the law does not permit the Appeal Division to intervene. It is not our role to re-hear the case *de novo*.

[6] It may well be that the Applicant’s co-worker received benefits while the Applicant did not. Regardless, I note that the fate of the Applicant’s co-worker is outside of my

jurisdiction. The only question before me is whether or not an error has been made by the General Division member in this case.

[7] In order to have a reasonable chance of success, the Applicant must explain in some detail how in their view at least one reviewable error set out in the *Act* has been made. Having failed to do so, this application for leave to appeal does not have a reasonable chance of success and must be refused.

*Mark Borer*

Member, Appeal Division